



# Town of Mashpee

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*16 Great Neck Road North  
Mashpee, Massachusetts 02649*

## **BOARD OF HEALTH – PUBLIC SESSION**

### **Minutes of the Meeting of November 3, 2016**

#### **Board Members Present:**

Kalliope Egloff, Chair  
Brian Baumgaertel, Clerk

#### **Member Absent:**

Lucy Burton, Co-Chair

#### **Also Present:**

Glen Harrington, Health Agent

Chair Kalliope Egloff called the meeting to order at 7:02 PM.

#### **APPOINTMENTS**

##### **7:15 PM – 2017 Food Pantry Request – Mashpee Village.**

Ebony Steele of Mashpee Village, introduced herself to the Board.

Mr. Steele remarked that Mashpee Village has an emergency food tray and is requesting to have frozen foods such as Hot Pockets, hamburg, pot pies, etc. on site. Ms. Steele would like to have them on hand for residents of Mashpee Village in emergency situations where funds are not available to purchase food. The chicken and meat will be separated as there are two freezers on the premises.

Glen Harrington commented that the Certified Food Manager and Allergen Awareness Certificates are on file. This was originally required by the Board in 2014, when Mashpee Village obtained a food pantry license from the Board of Health to offer fresh fruit and vegetables. An inspection of the freezers by the health agent will be required prior to the issuance of the amended permit.

Brian Baumgaertel made a motion that the Board of Health approve the 2016 Food Pantry license for Mashpee Village pending the health agent's inspection. Kalliope Egloff seconded the motion. The motion was unanimously approved.

##### **7:20 PM – Show Cause Hearing – Housing Code Violations – 701 Great Neck Road South.**

Glen Harrington stated that on May 2, 2016, a sanitary code inspection was performed at the request of the tenant at 701 Great Neck Road South. An order letter was sent to notify the owners, and timeframes were issued to correct the documented violations. The order letter was received by the owners (or representative) on May 6, 2016. On June 6, 2016, a re-inspection was performed and ten of the violations were corrected. However, five of the violations were not rectified. One of the violations was a Section 750 or a violation that is considered to impair the health, safety, and well-being of the occupants which is required to be corrected within 48 hours (no carbon monoxide detectors). All of the violations were documented as being repaired on October 19, 2016. The Section 750 violation was not repaired for 140 days. The remaining four violations were not corrected for 116 days.

On May 9, 2016, Attorney Mark Gildea notified the Board of Health that an eviction was in process with the tenant. The eviction does not exempt the owner from completing the repair of the violations. Denial of access issues was not reported to the Board of Health. If there were, the Board of Health staff would have cited the tenant for failing to allow the repairs to be made. Attorney Gildea mentioned to Mr. Harrington that an insurance company was involved which may have delayed the repairs. After the first tenant was evicted, new tenants moved in so the owners were still accepting revenue from the new tenants while there were violations,

one of which was a condemnable offense (310 CMR 410.482 – State Board of Fire Prevention -- carbon monoxide detectors were observed missing throughout the main level of the dwelling). Bob Weeke's, owner of Bob's Seafood Café, confirmed that he had a lease from May 2016 through May 2017.

Mark Gildea, representing the owner of 701 Great Neck Road South, introduced himself to the Board.

Attorney Gildea commented that the reason the matter did not proceed was based on the attorney's unavailability at the original meeting and also the next scheduled meeting. In May 2016, the tenant contacted the Board of Health. At that time the tenant was under eviction in the Falmouth District Court. In February 2016 a judgment for possession from the Falmouth District Court relative to the tenant was issued. The tenant continued to indicate that he would be out of the property and requested more time. The trust allowed the tenant to stay for a longer period of time, but it became evident that he would not leave voluntarily. Therefore, it was necessary to hire a Constable. A copy of the receipt from the Constable showing the execution that was served upon the tenant on May 3, 2016, was provided to the Board. This tenant first occupied the property in 2011, which at that time was in pristine condition. Attorney Gildea provided photographs and the signed lease to the Board. The occupant left mid-May 2016, and the new tenants rented in mid-June 2016. Prior to renting the property to this tenant in 2011, there were smoke and carbon monoxide detectors in the dwelling which had been removed. After the Board of Health noted the deficiency, the smoke and carbon monoxide detectors had been replaced and the mildew issue was immediately addressed.

After the June 6, 2016, inspection the health agent identified five issues. One was no shingles on an exterior wall. The shingles were installed to address the issue even though that section of wall is covered by a bulkhead. Also, there was no rail going downstairs to a sand basement. The railing has now been mounted.

Attorney Gildea remarked that the trust will acknowledge the mistake in not appropriately communicating with the health agents that all of the issues were addressed. The issue that had not been immediately addressed was to the final repair of the damage that was caused by the water. This was the subject of an insurance claim, and Attorney Gildea provided the Board with documentation pertaining to the claim. The property was promptly evaluated by the contractor to address the issues. The current tenant submitted a letter to the fact that he had no concerns with the conditions of the property. The interior of the property was clean, and no mildew was observed. The landlord had performed some temporary repairs to the ceiling and had been removing the personal property left in the yard and the garage by the prior tenant. A 30-yard dumpster was necessary to remove all of the debris left behind. As of the October 19, 2016, housing inspection, all of the corrections were addressed.

Kalliope Egloff reviewed the fines for the violations: \$100 per day for the Section 750 violation and \$25 per day for the four remaining violations. \$100 times 140 days of non-compliance comes to \$14,000. \$25 times four violations times 116 days is \$11,600 for a potential grand total of \$25,600 to date. Ten violations were corrected within the 30 days. The new tenants moved in shortly after the June 6, 2016, housing inspection. The carbon monoxide detectors were re-installed at that time.

The Board discussed the fine structure and agreed to issue for 7 days of non-compliance. For the carbon monoxide detector violation it is \$100 times 7 days and 3 offenses times \$25 a day times 7 days for the missing railing, the leaking bulkhead, and the mildew and peeling paint. The Carbon Monoxide detector violation is \$700, and the other violations are \$525 for a grand total of \$1,225.

Brian Baumgaertel made a motion that the Board of Health issue fines for 701 Great Neck Road South for housing code violations and fire code violations in the amount of \$100 for 7 days for the carbon monoxide detectors, \$25 for 7 days for the railing, \$25 for 7 days for the bulkhead, and \$25 for 7 days for the paint issue for a total of \$1,225. Kalliope Egloff seconded the motion. The motion was unanimously approved.

#### **7:25 PM – Nitrogen Aggregation Loading Plan Request – 32 Marway.**

Glen Harrington stated that Matthew Costa of Cape & Islands Engineering requested a continuance for 32 Marway due to zoning issues with the property.

### **7:30 PM – Asbestos and Rodent Control Violations – Lakeside Estates.**

Glen Harrington stated that the violation at Lakeside Estates occurred when 5 trailers were removed without demolition permits. The Board of Health requirements for demolition include a rodent control inspection and an asbestos inspection per the Department of Environmental Protection requirements. Neither the rodent control inspections nor the asbestos inspections were performed. At the request of the Department of Environmental Protection, asbestos samples were obtained from the 5 removal sites. Lot #10 had one hit of a material with 35% of chrysotile asbestos. Mr. Harrington discovered today that the removal contractor was Cape Cod Septic Services. The equipment operator that tore down the trailers informed Mr. Harrington that he dealt with Matthew Haney directly and the Park owners provided the dumpsters. He did not know where the waste was taken or the company that hauled it away. The Building Department has forwarded their complaint to Town Counsel that no permits were obtained for the demolition or removal of the trailers.

Matthew Haney, owner of Lakesides Estates, introduced himself to the Board.

Mr. Haney commented that Lakesides Estates was once known as Lakeside Trailer Park. Henry Labute originally owned the trailer park before MEZ Realty. The 99-unit park has been in existence since the 1940's, and MEZ Realty has owned it since the early 1990's. A previous Building Commissioner, Bill Hauck, ruled in a letter dated September 8, 1995, that units could be removed and brought in as long as the amount of units did not exceed the 99 sites.

Mr. Haney commented that a new demolition application procedure was revised by the Building and Health Departments about a year ago. Mr. Haney remarked that he has a contract with Terminix to treat the mobile home park for rodents with bait stations. He has seen no rodents since changing pest control companies.

Mr. Haney stated that with regards to the asbestos, he spoke to the manufacturer of Unit #10, and the unit was manufactured in the late 1980's. Mr. Haney commented that he was informed by the manufacturer that asbestos was not used in the materials at that time. Mr. Haney remarked that many units have been removed or transferred without the benefit of permits. MEZ Realty does not own the units.

Kalliope Egloff stated that if there were hazardous material inside an abandoned property and the abandoned property was disposed of, the rules and regulations still need to be followed for the disposal of the contents. Potential hazardous material was revealed inside one of the properties, and one test confirmed it.

Mr. Harrington commented that he spoke to the current Building Commissioner and was informed that the letter Mr. Haney just presented references zoning and has nothing to do with demolition. Mass General Law for trailer parks states that all state and local requirements must be met which includes demolition. Asbestos renovation and demolition has been effective since 1991. This Building Commissioner is now enforcing the law and stated that this is a structure. Structures must be demolished and renovated according to the law.

Mr. Haney has had a contract with Terminix for pest control for about a year. Mr. Haney will provide Mr. Harrington with an updated pest control contract. There are approximately 12 bait stations which are located by the dumpster area only. Mr. Haney remarked that the lots are leased and the park owners cannot trespass onto the individual lots. In Mr. Harrington's opinion the individual units should also have been baited.

The five individual units that were removed or demolished were not inspected prior to the work performed. Mr. Haney commented that two of the units were moved off site to Wareham, and the other three were moved across the road and not technically demolished. Mr. Haney stated that he was out of the country at that time and does not know the company that performed the work. Mr. Harrington remarked that he spoke to the operator of Cape Cod Septic Services and was notified that they were the company that demolished the five units. They separated the wood and the metal from the chasses and placed them into the dumpsters. Excavators were used to perform this work.

Brian Baumgaertel expressed concern that the abutters were not notified of the demolition and if the workers were exposed to the asbestos debris. The transportation of the debris in the five dumpsters, that were not labeled properly, is unknown, as Mr. Haney was out of the country at that time. Mr. Haney remarked that he will search for an invoice as everything is computerized.

Mr. Baumgaertel strongly recommended that Mr. Haney as a business person familiarize himself with the rules and regulations that surround and regulate his business. Mr. Baumgaertel suggested that Mr. Haney become more familiar with the State Sanitary Code and the asbestos regulations, especially if there are other old units on the property that may contain asbestos material.

Kalliope Egloff stated the following:

1. To order an asbestos survey to be done for each of the five sites per the Department of Environmental Protection recommendation. If the survey is not performed within the timeframe, issue a fine for failure to perform an asbestos survey. There are also fines issued for not removing the asbestos from the trailer. Transporting and disposing of the asbestos-containing waste is also a violation. The fine for each violation is up to \$25,000.
2. The fine for removing the 5 trailers without a rodent control inspection is \$300 per site for a total of \$1,500.
3. A fine of \$3,400 for failure to provide a list of occupants per the regulation.
4. Issue a fine of \$100 per day for the manager not being on-site.

Mr. Harrington informed the Board of Health that an order letter was sent to Matthew Haney back in September 2016, regarding the failure to provide a list of occupants. Also, Mr. Harrington mentioned issues not addressed by Mr. Haney from other order letters.

Ms. Egloff stated that the name of the waste hauler company and the location of the waste disposal is required to be provided for the 5 dumpsters by Mr. Matthew Haney either by a weight slip, a bill of lading or an invoice. MEZ Realty is required to provide within 30 days an asbestos survey for each of the 5 sites that were demolished on site. The rodent regulation for the 5 sites at \$300 per site for a fine of \$1,500. The fine for the asbestos is pending the name of the waste hauler, the bill of lading, the weight slip, and/or the invoice for each of the 5 dumpsters to be provided from Mr. Matthew Haney. The hearing will be continued for the asbestos once all of the information is received and the location of the materials that were disposed is ascertained. Thirty days from November 9, 2016, which will be December 9, 2016, discussion on the asbestos component will take place at the December 15, 2016, Board of Health meeting. Also, information on the waste hauler (name of company, contact information and disposal of the waste) and the bill of lading or weight slip to be provided by Mr. Matthew Haney by November 23, 2016. A legal document of record verifying the location of the disposal of the waste by November 23, 2016. Ms. Egloff requested that Mr. Haney receive a copy of the building department checklist for demolition.

Brian Baumgaertel made a motion that the Board of Health continue the asbestos violations to the next Board of Health meeting scheduled on December 1, 2016, with the following conditions: Within 14 days or November 23, 2016, Mr. Matthew Haney will produce information regarding the identification of the waste hauler, the waste disposal location, and a legal document of record for disposal of the 5 dumpsters for the removal and demolition of the trailers. In addition, within 30 days or December 9, 2016, to complete and submit results for a full asbestos survey for each of the 5 demolition sites at Lakeside Estates. Also, a \$300 fine per site at 5 sites for failure to perform the rodent inspections for a total of \$1,500, per the rodent regulation. Kalliope Egloff seconded the motion. The motion was unanimously approved.

## **NEW BUSINESS**

1. **Sign Expense Warrants.** The Board members signed the expense warrant.

## **2. Review/Approve BOH Public Session Minutes: October 20, 2016.**

Brian Baumgaertel made a motion that the Board of Health approve the Public Session minutes of October 20, 2016, as amended. Kalliope Egloff seconded the motion. The motion was unanimously approved.

### **ADDITIONAL TOPICS**

**None.**

### **DISCUSSION**

#### **1. Household Hazardous Waste Collection – Upper Cape: October 15, 2016.**

Kalliope Egloff remarked that the Household Hazardous Waste Collection was held on October 15, 2016. 22 Mashpee residents attended this collection, and in total 219 Mashpee residents have attended all four household hazardous waste collections. Overall, there were 1,352 residents that attended the Upper Cape collection. 22,150 pounds of hazardous waste was collected. In the 3 ½ hour period seventeen 55-gallon drums of pesticides were collected from homeowners only. Sixty-three 55-gallon drums of pesticides were collected in the four collections. Six 55-gallon drums of gasoline were collected. One gallon of gasoline can contaminate a million gallons of drinking water. Twenty-four 55-gallon drums were collected in the four Upper Cape collections. Thirteen 55-gallon drums of flammable liquids were collected. From a yearly prospective twenty-six 55-gallon drums of those same flammable liquids were collected. Thirty-one 55-gallon drums of paint sludge and 40 T-Packs were also collected.

### **NEXT MEETING**

The next meeting of the Board of Health is scheduled for Thursday, December 1, 2016, at 7:00 PM. As there was no further business, Brian Baumgaertel made a motion to adjourn the Public Session Meeting of the Board of Health at 8:51 PM. Kalliope Egloff seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Frances Boulos  
Administrative Assistant  
Mashpee Board of Health

attachments